

REMARKS/ARGUMENTS

Claims 1-24 were pending and examined.

The Examiner indicated objections to informalities in the specification and Abstract.

The Examiner rejected claims 1-2, 4-5, 9-10, 12-13, 17-18, and 20-21 under 35 USC § 102(b) as being anticipated by Bright *et al.* (U.S. Patent No. 6,141,756), hereinafter "Bright".

The Examiner rejected claims 3, 11, and 19 under 35 USC § 103(a) as being unpatentable over Bright, and further in view of Hughes (U.S. Patent No. 5,968,174), hereinafter "Hughes".

Claims 6-7, 14-15, and 22-23 were rejected under 35 USC § 103(a) as being unpatentable over Bright, and further in view of Cuccia *et al.* (U.S. Patent No. 6,151,676), hereinafter "Cuccia". Claims 8, 16, and 24 were also rejected under 35 USC § 103(a) as being unpatentable over Bright, and further in view of Cuccia.

In this response, Applicant has not amended any claims. Claims 1-24 remain pending.

Specification Objections

The Office Action indicated an objection to informalities in the specification as filed. In response, Applicant has amended the specification as indicated to address the issues raised by the Examiner. Applicant wishes to thank the Examiner for diligently reviewing the application and discovering these errors. Applicant submits that the specification as amended addresses the objections raised by the Examiner and Applicant would respectfully request the Examiner to reconsider and withdraw the objections.

The Office Action indicated an objection to the Abstract as filed. In response, Applicant has submitted a replacement abstract that complies with the maximum word limitation. Applicant submits that the abstract as amended addresses the objection raised by the Examiner and Applicant would respectfully request the Examiner to reconsider and withdraw the objection.

Claim rejections under 35 USC § 102(b)

The Examiner rejected claims 1-2, 4-5, 9-10, 12-13, 17-18, and 20-21 under Section 102(b) as being anticipated by Bright.

In response, Applicant respectfully traverses the rejections of independent claims 1, 9, and 17. The anticipation rejection of independent claims 1, 9, and 17 is improper because the cited reference does not disclose all of claim limitations. More specifically, Bright does not disclose either explicitly or inherently a method or computer code for transitioning a data processing system from a protected mode to a real mode in response to successfully decrypting an encrypted signature.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Each of the independent claims contains an element reciting a transition of a data processing system from a protected mode to a real mode responsive to successfully decrypting a signature. The Office Action indicates that column 4 lines 14-32 of Bright disclose this limitation. The cited portion of the reference reads as follows:

If the program was found to be encrypted at step 305, the program is then decrypted at step 307. In the preferred embodiment, the decryption step is performed by the decryption processing section 107 of the processor 101. The decryption process is tailored to the type of encryption that was used to encrypt the program in the external device 103. If, for example, asymmetric encryption key was used to encrypt the program in the external device 103, then the same key would be used to decrypt the program at step 307. Similarly, if a public encryption key system was utilized, the program was encrypted by a public key and placed in the external device 103, and the processor 101 uses a private key to decrypt the same message. The key 113 used for decryption is embedded inside the processor in the preferred embodiment. The key 113 may be stored in RAM, ROM, programmable non-volatile memory, fixed hardware, and so forth. The decryption step may also include processing a key into another key or another piece of information to be used to decrypt the program.

Applicant submits that the cited passage does not disclose either explicitly or inherently anything regarding transitioning a system from a protected mode to a real mode. The terms "protected mode" and "real mode" are notoriously well known in the field of microprocessor based data processing systems to refer to two different operating modes- a protected mode in which multiple applications can coexist because access to resources such as system memory is restricted or protected by the operating system and a real mode in which the executing application can access

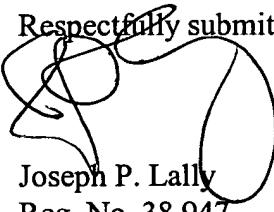
any portion of the system memory and other resources. This distinction is also explicitly described in the specification as filed. See, e.g., paragraph beginning on page 2, line 4.

Bright does not disclose a data processing system transitioning to real mode. The terms "real mode" and "protected mode" simply do not occur in Bright. Nor does the term "kernel" or "kernel routine," which is recited in the second element of the claims under consideration. Bright does not disclose these terms or any features related to these terms either explicitly or inherently because Bright is not concerned with transitioning a system from protected mode to real mode as part of a flash programming routine. Instead, Bright is concerned with downloading from an external device a program that is itself encrypted (see, e.g., Abstract of Bright). There is nothing either explicit or inherent in Bright's technique for downloading an encrypted program that requires Bright to transition its processor to real mode as part of the process.

Because the cited reference does not disclose either explicitly or inherently a limitation found in the claims under consideration, the anticipation rejection is improper and Applicant respectfully requests the Examiner to reconsider and withdraw the rejection. Analogous arguments apply to the limitations found in claims 2, 10, and 18 regarding non-privileged code (i.e., Bright does not disclose a distinction between privileged and non-privileged code. Moreover, because the independent claims recite matter that is allowable over the cited reference, the rejections of the remaining dependent claims are also improper.

CONCLUSION

In the present response, Applicant has addressed the Examiner's objections to the specification and abstract, and the Examiner's claim rejections under 35 USC § 102(b), and 35 USC § 103(a). Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,

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